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June 7, 2006

Magistrate Judge Raymond Erickson
United States District Court
412 Federal Building
515 West First Street
Duluth, MN 55802

THIRD-PARTY DEFENDANT LAKE OF THE WOODS COUNTY'S LETTER BRIEF SUBMISSION PURSUANT TO INFORMAL PROCEDURE FOR MOTION TO AMEND PRE-TRIAL ORDER TO BE HEARD AT 9:00 A.M. ON JUNE 13

RE: United States of America v. Gary Bailey v. Lake of the Woods County
Our File No. 1070-0587
Court File No. 05-2245(PJS/RLE)

Dear Magistrate Judge Erickson:

I am writing on behalf of all counsel to this matter. As the Court is aware as it issued an Order allowing a Third-Party Complaint to be made against Lake of the Woods County, the County has recently been added to the case. I represent the County.

The County just answered this matter on May 30. We have not yet had a chance to review pleadings and other proceedings that have taken place in the case, but have had discussions with all other counsel. On behalf of myself and the other counsel I am requesting an amendment of the Pretrial Order in this case due to the recent addition of the County as a party. In connection with that, I am submitting to you a Proposed Amended Pretrial Order, and a Stipulation electronically signed by all counsel to amend the Pretrial Schedule.

We are seeking an additional four months in which to conduct discovery, bring motions, and hopefully conclude this matter. I believe the late inclusion of the County in the case constitutes good cause for the proposed change of the Pretrial Order. Given the amount of work to do and other commitments, I feel this time is necessary in order to adequately represent the County's interests.

Additionally, and while I know that this Court does not amend Scheduling Orders simply to allow the parties time to conduct negotiations to resolve matters, the posture in which all parties are now taking towards one another does have an impact on this request for additional time. The approval of this subdivision and the actions taken by Mr. Bailey in regards to this land have spawned multiple administrative and judicial proceedings. This is the fourth case that I have been involved in defending the County. This is the fifth judicial case in which Mr. Bailey has been involved, when one takes into account the pending action in front of the United States Court of Claims. Numerous government entities have been involved in the litigation, including the Minnesota Pollution Control Agency, and the Minnesota Department of Natural Resources.

A complicated set of facts exists, involving numerous different regulatory authorities, all exercising concurrent jurisdiction over various aspects of development on this land. For some time, the State and County have been attempting to find circumstances where all regulatory authorities and Mr. Bailey could sit down to try to resolve issues that have been outstanding for eight years. Given recent proposals made by Mr. Bailey, we are now all at a position where all government entities are willing to sit down and see if this matter can be resolved.

Again, I know this Court's position on amendments to a Pretrial Order to allow for settlement negotiations to take place. However, I believe that this is a unique set of circumstances given the various entities involved and the burdensome amount of litigation and administrative actions which all parties have been involved in. Given scheduling issues and the complexity of any potential resolution, we believe that it may take 60 to 90 days to determine if such resolution is possible. I believe that under the unique set of circumstances in this case, this opportunity also constitutes good cause for an amendment of the Pretrial Order.

Lake of the Woods County therefore respectfully requests that this Court grant the Motion to Amend the Scheduling Order as set forth in the Proposed Amended Pretrial Order.

Respectfully submitted,

s/Scott T. Anderson

Scott T. Anderson

STA/cmp
cc Alan Fish
Fredrick Siekert
RRM: #92128